

ILLINOIS POLLUTION CONTROL BOARD
September 6, 2001

COUNTY OF PERRY,)
)
 Complainant,)
)
 v.) AC 02-1
) (PCHD No. 101-01-AC)
 WILLIAM SHRUM,) (Administrative Citation)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On July 12, 2001, the County of Perry (County) timely filed an administrative citation against William Shrum (Shrum). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). County alleges that Shrum violated Sections 21(p)1 and (p)3 of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2000)). County further alleges that Shrum violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter and open burning at his facility located at 6694 Shamrock Road in Perry County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, County served the administrative citation on Shrum within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2000); *see also* 35 Ill. Adm. Code 108.202(b). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2000); 35 Ill. Adm. Code 108.204(b), 108.406. Here, Shrum failed to timely file a petition. Accordingly, the Board finds that Shrum violated Sections 21(p)1 and (p)(3) of the Act.

The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2000); 35 Ill. Adm. Code 108.500(a). Because there are two violations of Section 21(p) and these violations are first offenses, the total civil penalty is \$3,000. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

ORDER

1. William Shrum (Shrum) must pay a civil penalty of \$3,000 no later than October 6, 2001, which is the 30th day after the date of this order.

2. Shrum must pay the civil penalty by certified check or money order, made payable to the Perry County Treasurer's Office. The case number, case name, and Shrum's social security number or federal employer identification number must be included on the certified check or money order.
3. Shrum must send the certified check or money order and the remittance form to:

Charles A. Hill
Perry County Treasurer
P.O. Box 158
Pickneyville, Illinois 62274
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 6, 2001, by a vote of 7-0.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board